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Revenue and Taxation Legislative Summary 2003

Assembly Committee on Revenue and Taxation

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**Assembly Committee on
Revenue and Taxation**

California State Legislature

**Revenue and Taxation
Legislative Summary
2003**



Honorable Ed Chavez, Chair

Honorable Mark Wyland, Vice-Chair

November 2003

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2003 LEGISLATIVE SUMMARY

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Assembly Committee on Revenue and Taxation ED CHAVEZ, CHAIR

2003

LEGISLATIVE SUMMARY

The following is a list of bills adopted by the Legislature during the first year of the 2003-2004 Legislative Session which changed state law in the area of revenue and taxation. The measures are listed in bill number order, with 2003 chapter numbers provided, and the provisions of each bill briefly summarized.

The list also includes bills adopted by the Legislature and vetoed by the Governor.

The Assembly Revenue and Taxation Committee heard the majority of the bills listed in this report.

Copies of analyses of bills heard by the Assembly Revenue and Taxation Committee can be obtained by accessing the California State Assembly's web page at www.assembly.ca.gov, by contacting the Committee office at (916) 319-2098 or by writing to the Assembly Revenue and Taxation Committee, Legislative Office Building, 1020 N Street - Room 162, Sacramento, CA 95814.

This publication is intended to be a useful summary of the Legislature's work in the area of revenue and taxation during 2003 and a helpful reference document for any who need to know about state and local taxation law and policy. Copies of this summary may be obtained under "Publications" on the committee's web page at www.assembly.ca.gov.



ASSEMBLY COMMITTEE ON REVENUE AND TAXATION

2003 LEGISLATIVE SUMMARY

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ASSEMBLY COMMITTEE ON REVENUE AND TAXATION

2003 LEGISLATIVE SUMMARY

AB 71 (Jerome Horton), Chapter 890. TOBACCO PRODUCTS: STATE AND LOCAL GOVERNMENT. Enacts the Cigarette and Tobacco Products Licensing Act of 2003, which imposes licensing requirements on tobacco manufacturers, wholesalers, retailers and importers; requires manufacturers to pay a one-time fee; and imposes additional civil and criminal penalties on individuals and businesses who violate tobacco-related, anti-contraband laws and laws prohibiting tobacco-related sales to minors.

AB 132 (Chavez), Chapter 170. INCOME TAXES: DESIGNATED CONTRIBUTIONS. Provides ordering rules to be used by the Franchise Tax Board (FTB) when adding income tax checkoffs to the personal income tax return. Directs FTB to add newly approved checkoffs to the income tax return in chapter number order. Allows FTB to add legislatively approved checkoffs to the income tax return if there is room to do so, regardless of whether any checkoffs were removed from the form in a particular year.

AB 137 (Correa), Chapter 376. INCOME TAXES: DESIGNATED CONTRIBUTIONS: SENIOR CITIZENS. Extends the sunset date on the California Fund for Senior Citizens (Fund) tax checkoff to January 1, 2010, provided the Fund receives at least a specified, minimum level of contributions annually. This minimum amount equaled \$250,000 in 2001 and is indexed for inflation in subsequent years.

AB 189 (Cogdill), Chapter 721. SALES AND USE TAXES: EXEMPTION: VETERAN'S ORGANIZATIONS: MEALS. Provides a sales and use tax exemption for fundraising-related sales of meals and food products by nonprofit veterans' organizations.

AB 243 (Vargas), Chapter 428. STATE CHAPLAINS: SALARY: RENTAL ALLOWANCE. Increases the value of the housing allowance that a state-employed member of the clergy may exclude from taxation. Allocates up to 50% of the gross salary of a member of the clergy toward the rental value of a home furnished to him or her or to a rental allowance for the purpose of providing the clergymember a home. Defines a member of the clergy as a priest, minister, religious practitioner, or similar functionary of a religious denomination or religious organization.

AB 322 (Parra), Chapter 278. DISABLED VETERANS: PROPERTY TAX EXEMPTION. Extends the current property tax exemption to qualified veterans that are confined to a hospital or other care facility. Allows the exemption to continue if the veteran is confined to a hospital or other care facility on the lien date. Directs the assessor of each county to verify continued eligibility of each disabled veteran in accordance with rules and regulations established by the Board of Equalization.

AB 967 (Chavez), Chapter 268. PERSONAL INCOME AND CORPORATION TAXES: FEDERAL CONFORMITY: VICTIMS OF TERRORISTS RELIEF ACT OF 2001: TRUSTS: SUBCHAPTER S. Makes technical corrections to recently enacted federal conformity bills AB 1122 (Corbett), Chapter 35, Statutes of 2002, and SB 657 (Scott), Chapter 34, Statutes of 2002; and victims of terrorism conformity bills AB 2670 (Wyman), Chapter 690, Statutes of 2002, and SB 219 (Scott), Chapter 807, Statutes of 2002. The corrections to the federal conformity bills impact S corporations as well as various non-substantive provisions and cross-references. The corrections to the victims of terrorism bills expand the definition of "disability trust" to mirror federal law and allow a disability trust to claim a personal exemption credit in the same amount allowed for California tax purposes to an individual.

AB 986 (Jerome Horton), Chapter 569. TAX COLLECTIONS: CONSOLIDATION. Requires the Legislative Analyst's Office (LAO) to submit a report to the Legislature by November 1, 2004 regarding the possible consolidation of the remittance processing, cashiering, and mail processing operations of the Franchise Tax Board (FTB), the Board of Equalization (BOE), and the Employment Development Department (EDD). Directs FTB, BOE, and EDD to provide LAO with all data and information LAO identifies as necessary for completing the report and to assist LAO in preparing the report.

AB 1043 (Liu), Chapter 87. STATE BOARD OF EQUALIZATION: MANAGED AUDIT PROGRAM. Reauthorizes the Board of Equalization (BOE) to administer a managed audit program (MAP) under the Sales and Use Tax Law. Requires BOE to determine which taxpayers' accounts are eligible for the MAP, and specifies that taxpayers who are selected as eligible are not required to participate in the MAP. Grants any taxpayer who participates in the MAP a 50% reduction in the interest due on any unpaid liability discovered during the audit.

AB 1556 (Nakano), Chapter 221. ESTATE TAX. Establishes the order for application of payments against estate tax to be first to interest, next to penalties, and finally to tax. Provides that all interest and penalties under the gift and death tax payment chapter will be treated and collected as tax.

AB 1601 (Frommer), Chapter 654. ADMINISTRATION OF TAXES: TAX SHELTERS: PENALTIES. Enacts a comprehensive set of changes that increase the penalties for investors, promoters, and organizers of abusive tax shelters; enhances the Franchise Tax Board's ability to pursue investors, promoters, and organizers of abusive tax shelters; and provides a limited window of time during which taxpayers who voluntarily come forward and pay all tax and interest due as a result of their use of abusive tax shelters can avoid the enhanced penalties this bill would create. Identical to SB 614 (Cedillo), Chapter 656, Statutes of 2003.

AB 1666 (Cogdill), Chapter 867. CIGARETTE AND TOBACCO PRODUCTS. Allows distributors of both cigarettes and other tobacco products that choose to defer paying their tobacco tax liabilities to elect to pay tax on either a twice-monthly or a monthly basis. Requires the distributor's election, which is subject to approval by the

Board of Equalization, to remain in effect for at least one year. Reduces the amount of security required to be posted by cigarette product distributors that elect to pay their tax liabilities twice-monthly.

AB 1741 (Committee on Revenue and Taxation), Chapter 697. TAXATION: DEFICIENCIES, REFUNDS, AND INTEREST. Enacts one Board of Equalization (BOE)-sponsored and two State Controller's Office (SCO)-sponsored administrative proposals. The BOE proposal establishes a voluntary use tax-reporting program for qualifying purchasers under the Sales and Use Tax Law. The SCO proposals grant the SCO more flexibility when calculating the interest due on overpayments of estate tax and allow the SCO to accept evidence other than an original invoice from purchasers seeking refunds of overpaid motor vehicle fuel tax.

AB 1742 (Committee on Revenue and Taxation), Chapter 455. INCOME AND CORPORATION TAXES: INTEREST: ABATEMENT: ADMINISTRATION: MINIMUM FRANCHISE TAX. Corrects an unintentional drafting error in a tax-related budget trailer bill [AB 1756 (Committee on Budget and Fiscal Review), Chapter 228, Statutes of 2003] by clarifying that tax practitioners who file more than 100 returns on a fee-for-service basis in a calendar year must begin filing tax returns electronically beginning with returns filed on or after January 1, 2004. Enacts three provisions intended to ease administration of the Personal Income and Corporation Tax Laws: a) clarifies which method should be used by the Franchise Tax Board (FTB) to calculate interest on erroneous refunds; b) renumbers section references relating to the Golden State Scholarshare Trust; and c) allows businesses that incorporate within 15 days of the end of their annual accounting period to disregard that period as a taxable year when determining their eligibility for the minimum franchise tax exemption provided to companies during their first taxable year. Also allows FTB to use new-hire and contractor registry information maintained by the Employment Development Department (EDD) for FTB's non-tax debt collection programs.

AB 1743 (Committee on Revenue and Taxation), Chapter 185. PERSONAL INCOME AND BANK AND CORPORATION TAXES: TECHNICAL CODE MAINTENANCE. Represents a comprehensive technical corrections bill of the Revenue and Taxation Code provisions administered by the Franchise Tax Board. Corrects cross-references, removes obsolete language and makes appropriate revisions to terminology used in related provisions of the Personal Income Tax Law and to the Corporation Tax Law.

AB 1744 (Committee on Revenue and Taxation), Chapter 316. TAXATION: ADMINISTRATION. Clarifies various administrative provisions of property tax law involving county tax assessors. Requires an exempt organization to file an application for a property tax exemption no later than 90 days from the first day of the month beginning after the property was acquired or, if earlier, February 15 of the following calendar year. Confirms that the lessor has the obligation to report leased property subject to a conditional sales contract until the lessee exercises an option to purchase the

property. Requires owner-builders or owner-developers of new construction to provide information and records for the property as requested by county assessors.

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SB 43 (Cedillo), Chapter 317. TAXPAYER CONTRIBUTIONS: EMERGENCY FOOD ASSISTANCE PROGRAM FUND. Extends the sunset date on the Emergency Food Assistance Program income tax checkoff to January 1, 2009, provided the fund receives at least a specified, minimum level of contributions annually. This minimum amount equaled \$250,000 in 1999 and has been indexed annually for inflation since that time.

SB 92 (Speier), Chapter 460. TAXPAYER CONTRIBUTIONS: CALIFORNIA MISSION FOUNDATION FUND. Authorizes the addition of the California Missions Foundation Fund income tax checkoff to the personal income tax form upon the removal of another income tax checkoff from the form. Allows the California Missions Foundation Fund checkoff to remain on the tax form for up to five years, provided it receives a minimum amount of contributions beginning in its second year on the form. The minimum contribution amount equals \$250,000 in the second year in which the checkoff appears on the form. This \$250,000 minimum required contribution is indexed for inflation in subsequent years.

SB 103 (Alpert), Chapter 655. CORPORATION TAX: DIVIDENDS. Clarifies that dividends received by a corporate shareholder from a Regulated Investment Company (RIC) generally are not excluded from income reported by the corporate shareholder for taxable years beginning on or after January 1, 2003

SB 157 (Bowen), Chapter 702. SALES AND USE TAXES: UNIFORMITY. Creates a Board of Governance, directs that Board of Governance to represent California as a voting member of the Streamlined Sales Tax Project, and codifies a number of aspects of the Streamlined Sales and Use Tax Agreement.

SB 180 (Burton), Chapter 189. PERSONAL INCOME TAX LAW: DEDUCTIONS: CALIFORNIA FIREFIGHTERS' MEMORIAL FUND. Changes the purposes to which money contributed to the California Firefighters' Memorial Fund (Fund) may be put. Allows Fund money to be used by the California Fire Foundation for maintenance and repair of the California Firefighters' Memorial, ceremonies to honor the memory of fallen firefighters and to assist surviving loved ones, and an information guide detailing survivor benefits to assist the spouses and children of fallen firefighters.

SB 285 (Speier), Chapter 370. INCOME TAXES: INNOCENT SPOUSE. Grants innocent spouse relief from state income taxes to any individual who has been granted innocent spouse relief by the Internal Revenue Service on their federal income taxes, with certain restrictions.

SB 448 (Poochigian), Chapter 412. VOTER REGISTRATION. Requires the Franchise Tax Board to include a voter registration card with the personal income tax filing forms that are mailed annually to California taxpayers.

SB 566 (Scott), Chapter 709. TRANSACTION AND USE TAX: MAXIMUM ALLOWABLE RATE. Increases the cap on total allowable countywide transactions and use tax rates to 2% and authorizes cities to levy transactions and use taxes at rates of 0.25% or 0.5%, subject to voter approval.

SB 614 (Cedillo), Chapter 656. TAX SHELTERS. Enacts a comprehensive set of changes that increase the penalties for investors, promoters, and organizers of abusive tax shelters; enhances the Franchise Tax Board's ability to pursue investors, promoters, and organizers of abusive tax shelters; and provides a limited window of time during which taxpayers who voluntarily come forward and pay all tax and interest due as a result of their use of abusive tax shelters can avoid the enhanced penalties this bill would create. Identical to AB 1601 (Frommer), Chapter 654, Statutes of 2003.

SB 760 (Scott), Chapter 597. SALES AND USE TAXES: EXEMPTIONS: PUBLIC PASSENGER VEHICLES. Extends the sunset date on the existing lease-leaseback exemption for public transit agencies to January 1, 2009 and grandfathers the exemption beyond that date for valid transactions entered into before that date.

SB 808 (Karnette), Chapter 712. SALES AND USE TAXES: EXEMPTIONS: BUNKER FUEL. Reinstates a state and local sales and use tax exemption for bunker fuel that was in effect prior to July 15, 1991 and from January 1, 1993 through January 1, 2003. Allows exemption to fuel and petroleum products sold to a water common carrier for immediate shipment outside California. Continues taxation of fuel required to propel the water common carrier to its first out-of-state destination. Exempts fuel purchased in California and used to propel the water common carrier beyond its first out-of-state destination.

SB 1009 (Alpert), Chapter 718. USE TAX COLLECTION: PUBLIC CONTRACTS: INCOME TAX FORMS. Prohibits the state from contracting with a vendor, contractor, or affiliate of either, that does not possess a seller's permit or certificate of registration, with certain exceptions. Requires the Franchise Tax Board to add a line or lines to the state's income tax forms allowing taxpayers to self-report their use tax liabilities and prevents state departments and agencies from contracting with any vendors or contractors that lack a valid seller's permit or have not registered with the Board of Equalization.

SB 1016 (Bowen), Chapter 603. TOBACCO PRODUCTS: SALE. Requires persons who wish to legally engage in non-face-to-face sales of cigarettes to persons in California to fully comply with the federal Jenkins Act, requires the Board of Equalization to provide information relative to a seller's failure or attempt to comply with the Jenkins Act to the Attorney General (AG), and requires the AG to report annually to the Legislature regarding all actions taken to comply with and enforce the Jenkins Act.

SB 1059 (Committee on Revenue and Taxation), Chapter 604. PROPERTY TAXATION. An omnibus measure sponsored by the California Assessors Association regarding bulk sales, tentative maps, disaster relief, historical aircraft exemption, nonprofit cemetery exemption, escape assessments, and electronic recordation of assessments.

SB 1060 (Committee on Revenue and Taxation), Chapter 605. TAX ADMINISTRATION. Enacts several provisions sponsored by the Board of Equalization (BOE) to simplify and ease administration of the taxes it administers. Allows taxpayers who are required to file sales and use tax returns and who are creditors of the state to delay their payments if the state budget is adopted after July 1. Requires BOE to retain public records pertaining to tax settlements that exceed \$500 for at least one year.

Allows a claim for refund of motor vehicle fuel tax or diesel fuel tax to be filed within the later of three years from the date of purchase or six months after the receipt of an invoice for the tax in cases where the tax was not invoiced at the time the fuel was purchased. Deletes a code section from the Transactions and Use Tax Law authorizing Stanislaus County to impose a 1/8-cent transactions and use tax to fund countywide library programs and operations, subject to a vote of affected taxpayers.

Corrects inadvertent drafting errors that led to the unintentional deletion or omission of terms from the Motor Vehicle and Diesel Fuel Tax Laws.

SB 1061 (Committee on Revenue and Taxation), Chapter 633. SUSPENDED CORPORATIONS: CORPORATION TAXES: WATER'S-EDGE. Revises the water's-edge election procedures to: a) allow taxpayers to perfect an incomplete election; b) remove the rolling 84-month contract; and c) amend various rules for taxpayers filing a water's-edge election in taxable years beginning on or after January 1, 2003. Enacts numerous technical corrections for a number of statutes that permit a suspended corporation to file an application for tax-exempt status, add definitions, permit tax-exempt title-holding companies formed as limited liability companies (LLC) to be exempt from the imposition of California LLC tax and LLC fees.

SB 1062 (Committee on Revenue and Taxation), Chapter 471. PROPERTY TAXATION. Makes numerous technical changes and corrections as an omnibus property tax bill. Amends the procedure for actions giving tentative approval of cancellation of agricultural or open space contracts. Provides that "new construction" does not include the repair or replacement of a substantially damaged or destroyed structure on qualified contaminated real property. Permits a prospective transfer of base year values for the principal residence of an individual over the age of 55 or permanently disabled for late-filed claims. Streamlines the process of applying for and granting of the welfare exemption.

SB 1063 (Committee on Revenue and Taxation), Chapter 199. PROPERTY TAXATION: COUNTY EQUALIZATION: ADMINISTRATION. Makes various

technical and corrective changes to laws dealing with the administration of property tax. Repeals and amends existing law that does not fully describe the processes used for maintenance of assessment rolls, in light of currently available technology.

SB 1064 (Burton), Chapter 606. INCOME AND CORPORATION TAX APPEALS: SALES AND USE TAX CREDIT. Clarifies the amount of the Manufacturer Investment Credit (MIC) sales tax refund available to a taxpayer filing a refund claim with the Board of Equalization (BOE). Denies a refund of a MIC carryover until the MIC could be claimed to reduce net tax under the income and franchise tax laws and limits the refund to the taxpayer's "net tax" - i.e., the amount remaining after application of credits authorized under the income and franchise tax laws. Applies to any claim for refund filed with BOE on or after August 7, 2003.

SB 1065 (Committee on Revenue and Taxation), Chapter 486. PERSONAL AND BANK AND CORPORATION TAXES: ELECTIONS. Provides that federal elections made by a taxpayer prior to the time that the taxpayer became subject to California tax are binding for California tax purposes.

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AB 94 (Chu). PROPERTY TAXATION. PENSION FUNDING. Extended a statutory exception for an increased property tax rate that may be imposed with respect to payments that support certain pension programs, provided that the voters had approved such payments before July 1, 1978.

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